

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUNTRUST BANK,

Plaintiff,

08 CV 1042 (CLB)

-against-

2003 29-FOOT SALT SHAKER MOTOR
YACHT "MASABETH", Official Number
1139586, et al.,

**MOTION TO DISMISS AND
RELEASE VESSEL FROM
ARREST, PLAINTIFF'S
CLAIM HAVING BEEN
SATISFIED**

Defendants.

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Plaintiff SunTrust Bank, by its attorneys Freehill, Hogan & Mahar (Patrick J. Bonner, Esq.) moves this Court for an order discontinuing and dismissing this action with prejudice and releasing the defendant vessel, "Masabeth" from arrest and from the custody of the United States Marshal for the Southern District of New York ("Marshal") and from the custody of Lab Marine, Inc., substitute custodian appointed by order of this Court, on the grounds and circumstances following.

1. Plaintiff's claim has been satisfied.
2. At the outset of this action plaintiff posted a \$2,000 bond with the Marshal; counsel for plaintiff has been informed by the Marshal's office that this bond is more than sufficient to cover all costs and expenses of this action incurred by the Marshal, and that a portion of said bond will be refunded. While additional costs to the Marshal are not foreseen, plaintiff agrees to hold the Marshal harmless for any such additional costs it may incur as a result of the arrest of said vessel.

3. Plaintiff has made arrangements satisfactory to the substitute custodian, Lab Marine, Inc., for payment of its fees for which plaintiff will be responsible.

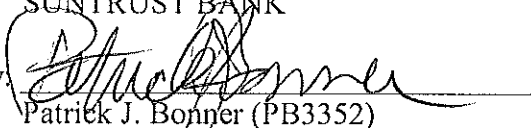
4. In this case, the defendant vessel belongs to an innocent third party, Kenneth E. Raske, who, as set forth in the complaint, was unaware of plaintiff's first preferred ship mortgage when he purchased the vessel as new, and on his behalf plaintiff respectfully requests that the vessel be released from arrest as soon as possible.

DATED: March 28, 2008

Respectfully submitted,

FREEHILL, HOGAN & MAHAR, LLP
Attorneys for Plaintiff,
SUNTRUST BANK

By


Patrick J. Bonner (PB3352)
80 Pine Street
New York, New York 10005
(212) 425-1900

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUNTRUST BANK,

Plaintiff,

08 CV 1042 (CLB)

-against-

2003 29-FOOT SALT SHAKER MOTOR
YACHT "MASABETH", Official Number
1139586, et al.,

POINTS AND AUTHORITIES
IN SUPPORT OF MOTION
TO DISMISS AND RELEASE
VESSEL FROM ARREST

Defendants.

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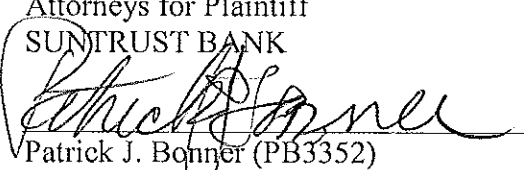
1. No appearance or pleading has been filed on behalf of any defendant, and no hearing has been held.
2. Plaintiff SunTrust Bank may dismiss the action, and have the vessel released from arrest, as a matter of right, Rule 41(a)(1), Federal Rules of Civil Procedure.
3. The costs and expenses of the United States Marshal for the Southern District of New York are fully covered by the \$2,000 bond put up with the Marshal by plaintiff.
4. In accordance with the order of this Court appointing Lab Marine, Inc. as substitute custodian, plaintiff is fully responsible for the substitute custodian's fees.

FREEHILL, HOGAN & MAHAR, LLP

Attorneys for Plaintiff

SUNTRUST BANK

By:


Patrick J. Bonner (PB3352)

80 Pine Street

New York, New York 10005

(212) 425-1900

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUNTRUST BANK,

Plaintiff,

08 CV 1042

-against-

2003 29-FOOT SALT SHAKER MOTOR
YACHT "MASABETH", Official Number
1139586, et al.,

**ORDER FOR RELEASE OF
VESSEL FROM ARREST
UPON VOLUNTARY
DISMISSAL OF ACTION**

Defendants.
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A complaint having been filed in this action to foreclose a first preferred ship mortgage on the defendant vessel "Masabeth", and the said vessel having been arrested on February 8, 2008, pursuant to a warrant of arrest *in rem*, and defendants not having entered an appearance herein,

Now, on motion of Freehill, Hogan & Mahar (Patrick J. Bonner, Esq.), attorneys for plaintiff, dismissing this action with prejudice on the ground that its claim has been satisfied, it is hereby

ORDERED, that the defendant vessel "Masabeth" be released from the custody of the United States Marshal for the Southern District of New York, and from the custody of Lab Marine, Inc., the substitute custodian appointed by this Court, and the said Marshal is ordered to release said vessel from arrest upon satisfaction of his fees from the plaintiff's deposit with payment of any fees in excess of plaintiff's deposit that may be outstanding

and unpaid, plaintiff being responsible for payment of all fees due the substitute custodian, and it is further

ORDERED, that the United States Marshal for the Southern District of New York be held harmless by plaintiff for any wharfage, storage or other charge that may have accrued, including fees of the substitute custodian, and it is further

ORDERED, that the instant action be and the same is hereby discontinued and dismissed with prejudice and without costs to either party.

SO ORDERED:

Dated:

Judge Charles L. Brieant

Patrick J. Bonner, Esq.
Freehill, Hogan & Mahar
80 Pine Street
New York, NY 10005
Attorneys for Plaintiff,
SunTrust Bank

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUNTRUST BANK,

Plaintiff,

08 CV 1042 (CLB)

-against-

RELEASE OF VESSEL
BY UNITED STATES
MARSHAL

2003 29-FOOT SALT SHAKER MOTOR
YACHT "MASABETH", Official Number
1139586, et al.,

Defendants.

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On this _____ day of _____, 2008, having received the Order directing release of the defendant vessel "Masabeth" from arrest, and, upon payment to me of costs and expenses incurred in the arrest of the vessel in the amount of \$ _____, I released the vessel heretofore arrested in this matter, the above-described defendant vessel, from arrest and custody.

United States Marshal